

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

GARY GAYLOR,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:12-cv-86
)	
TRU 2005 RE I, LLC,)	JUDGE CARTER
)	
Defendant.)	

ORDER OF DISMISSAL WITH PREJUDICE

Came the parties and announced that Plaintiff Gary Gaylor is deceased.

The Court has considered the Notice and Suggestion of Death with accompanying Death Certificate for Plaintiff Gary Gaylor filed on June 17, 2015 evidencing that he died on May 26, 2015 in Gainesville, Georgia. (Doc. 97).

The Second Amended Complaint seeks injunctive and declaratory relief under Title III of the Americans With Disabilities Act, 42 U.S.C. § 12181 *et seq.* (Doc. 85).

As a result of Plaintiff's death, the claims set forth in the Second Amended Complaint have been extinguished and do not survive. As Plaintiff could only obtain injunctive relief and not monetary damages under Title III of the Americans with Disabilities Act, his death makes any conceivable injunctive relief moot and his claim should be dismissed. *Southwell v. Summit View of Farragut, LLC*, 494 Fed. Appx. 508, 512 (6th Cir. Aug. 9, 2012).

Substitution of parties is not permitted under Fed. R. Civ. Pro. 25 as Plaintiff's claims are extinguished because of his death.

Accordingly, the Court is of the opinion that this matter should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED ADJUDGED AND DECREED, *sua sponte*, that this matter is dismissed with prejudice, with the parties to bear their own costs.

ENTER.

S / *William B. Mitchell Carter*

UNITED STATES MAGISTRATE JUDGE